



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Robert McMillen	Group No.: 3726
Serial No.: 10/008,896	Atty. Docket No.: 41575/29964(118)
Filed: December 7, 2001	Examiner: Hong, John C.
For: Apparatus and Method for Telescoping Actuator	

#10
Election
E. f. f. f.
1/14/04

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Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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ELECTION AND TRAVERSE

HONORABLE SIR:

Responsive to the official communication of November 21, 2003, Applicant submits the following election and traverse communication. It is not believed that extensions of time are required beyond those, which may otherwise be provided for in documents accompanying this communication. However, in the event that additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned for under 37 C.F.R. § 1.136(a), and any fees required therefore are hereby authorized to be charged to our Deposit Account 08-3460.

PROVISIONAL ELECTION

Applicant elects Examiner's designated Group I comprising claims 1-16, with traverse.

SUMMARY

Applicant traverses any alleged distinction made between Examiner designated Groups I (claims 1-16) and II (claims 17-24). Applicant does not traverse the Examiner's distinctions between Groups I and III (claims 15-28), Groups II and III, Groups III and IV (claims 29-34), Groups I and IV, and Groups II and IV, respectively. As set forth below, Applicant makes a provisional election to Groups I and II.

TRAVERSE

Applicant traverses any alleged distinction made between Examiner designated Groups I (claims 1-16) and II (claims 17-24). These claims are all to actuators. These claims "...are but different definitions of the same disclosed subject matter, varying in breadth or scope of definition." "Restriction therebetween should never be required." M.P.E.P. § 806.03.

No additional or different searching is required between Examiner designated Groups I and II. The Examiner's designation of Group I under Class 5, subclass 168, and Group II under Class 297, subclass 463.1, do not support the argument that they are related as a combination and subcombination in order to qualify for a restriction requirement under M.P.E.P. § 806.05(c).

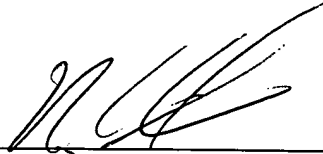
Subclass 168 is drawn to a manual, screw type tension cable actuator that moves the connected ergonomic device through its full range of travel by using half as many turns as existing actuators. This is accomplished by using two lead screws threaded in opposite directions thereby drawing the Bowden cable wire outward and pushing the Bowden cable sleeve inward

simultaneously. Subclass 463.1 is drawn to an alternative embodiment of the invention. Claim 17 is directed to decreasing the size of the actuator package and profile. One of the lead screws is telescoped into an inside channel of the other lead screw. The definition of both of these subclasses fail to establish the existence of the combination and subcombination requirement for application of M.P.E.P. § 806.05. Likewise, every element of independent Claim No. 1 is contained in independent Claim No. 17 and, as such, Claim No. 1 is a “linking” claim as defined in MPEP § 809.03. Additionally, both claims 1 and 17 are generic over the group of claims 1-16 and 17-24.

Applicant does not traverse the Examiner’s distinction between Groups I and III, Groups II and III, Groups III and IV, Groups I and IV, and Groups II and IV.

Prompt and favorable consideration of this communication is respectfully requested.

Respectfully submitted,



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CERTIFICATE OF MAILING

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Deborah Lane- Christian

Typed or printed name

Deborah Lane- Christian
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EXPRESS MAIL CERTIFICATE OF MAILING (37 CFR 1.10)

Express Mail No.: EV332071205US

Docket No.

41575-29964 (118)

Applicant(s): Robert McMillen

Serial No.
10/008,896Filing Date
December 7, 2003Examiner
Hong, John C.Group Art
3726

Title:

Apparatus and Method for Telescoping Actuator

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS

Transmitted herewith is:

- ☒ Election and Traverse
- ☒ Petition for Extension of Time Under 37 CFR 1.136(a)
- ☒ Check No. 369905 in the amount of \$110.00
- ☒ Post Card



Signature

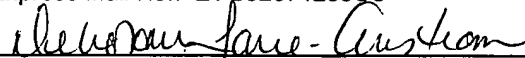
Dated: December 29, 2003

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